Association of Flight Attendants, AFL-CIO
1275 K Street NW, Suite 500
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FAX SUBMISSION

To: Robert L. Stephenson II, M.P.H.
Director, Division of Workplace Programs, CSAP
5600 Fishers Lane, Rockwall II, Suite 815
Rockville, MD 20857

From: Ann Tonjes, Manager, Policy Planning

Subject: Mandatory Guidelines for Federal Workplace Drug Testing Programs - Comments of the Association of Flight Attendants

Date: October 22, 2001

Pages: Eleven (11) pages

Attached please find a submission of ll pages. It includes a letter to the Secretary of the Department of Health and Human Services (HHS), the Honorable Tommy Thompson, from the International President of the Association of Flight Attendants, Patricia A. Friend, as well as an attachment of eight pages.

The original has been mailed to the Secretary and a copy mailed to you.

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ASSOCIATION OF FLIGHT ATTENDANTS AFL-CIO
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October 22, 2001

The Honorable Tommy Thompson, Secretary
Department of Health and Human Services (HHS)
200 Independence Avenue SW
Hubert H. Humphrey Building
Washington, DC 20201

Dear Mr. Secretary:

We are writing to share our perspective about the Department's proposed standards for mandatory validity testing - the Mandatory Guidelines for Federal Workplace Drug Testing Programs proposed by the Substance Abuse and Mental Health Services Administration's Division of Workplace Programs. We are submitting these comments on behalf of the Association of Flight Attendants, AFL-CIO, which represents flight attendants at 26 US carriers.

We believe in a drug-free workplace. Our very lives depend upon it. We are responsible for responding to any safety or security problem in the cabin - from an inflight fire to a violent or abusive passenger - and often work 12 to 16 hour days mostly on our feet. We must be able to evacuate an airplane in 90 seconds and now, tragically, perform our duties in the face of sophisticated terrorist threats.

The accuracy of mandatory workplace validity testing must be unassailable. But the proposed regulations are based on an incomplete assumption - that non-normal validity tests for substitution either result from a medical condition or tampering (an attempt to hide evidence of drug use). A third critical variable is excluded: an apparently healthy individual who has not tampered with the specimen but produces a substituted test result for reasons not taken into account by the proposed HHS standards.

These admittedly few employees who have done nothing wrong - except to produce urine test results which fall outside the parameters for "normal" - have an unqualified right not to be penalized merely because they produce ultra-dilute urine. An employee's ultra-dilute sample must be tested for the presence of illegal drugs at the DOT GC/MS cutoff level for an original sample, with the same protections as any other drug test, including the right to MRO review and split sample analysis.

We propose this solution to rectify the problems outlined below, which have not been addressed by the DOT or the HHS.

1-Impact of gender, ethnicity, weight and diet on substituted test results. In my January 26, 2000 letter to Secretary Slater, I asked if these issues had been addressed separately in developing validity testing standards. My letter was prompted by substituted test results from small female flight attendants of Asian descent who were vegetarians and who consumed

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considerable amounts of water on long flights. The Department of Transportation's (DOT) water loading study included a diverse population but did not address differences among diverse categories of individuals. In addition, only 9 of the 54 participants were women weighing 115 pounds or less. Of these, four were white, two Hispanic, two African-American and one Asian. None appear to be vegetarians. In other words, the study did not address my concerns.

2-Impact of different laboratory procedures on test results. Reports from two flight attendants demonstrate that separate laboratories can reach significantly different results when testing the same sample. In the first instance, a flight attendant produced a sample with a creatinine level of 4.9 mg/dL and a specific gravity of 1.001. That test result was done by Advanced Toxicology Network. Her split sample was tested at Northwest Drug Testing. The results were a creatinine level of 2.9 mg/dL and a specific of 1.002.

A second flight attendant produced a substituted result with a creatinine level of 5 mg/dL and a specific gravity of 1.001. Because LabOne truncated the creatinine levels, the result was cancelled. The test of her split sample had a 5.3 mg/dL creatinine level and a specific gravity level of 1.002.

The first example demonstrates highly suspect variations in testing for creatinine levels - a 4.9 mg/dL at one laboratory and a 2.9 mg/dL at the other. The difference seems too extreme to be credible. In both cases the specific gravity level of the flight attendant test results changed. Each flight attendant had one acceptable measurement (1.002) and one unacceptable one (1.001) on the same sample.

The DOT water loading study fails to discuss whether or not split samples were collected. One of our members participated in this program. At one point, she was told she would obtain the results of the tests of her split samples. At another point, she was advised that split sample testing was too expensive and was not undertaken. From our perspective, if splits were collected but not tested, tests on the splits should be done immediately to sharpen our collective understanding of variation among laboratory results.

3-Normal Creatinine Levels. AFA has continued to receive reports of questionable substitution results. One flight attendant (described above) was terminated after producing a sample which had a creatinine level of 4.9 mg/dL and a specific gravity of 1.001. She was advised that she did not have the right to have her split sample tested because her original test had taken place before split sample testing for failed validity tests became mandatory in January, 2001. Her next step was an internal review process at her company, which involved assistance from individuals with expertise in validity testing, but she was not reinstated. After receiving a court order for the split to be tested, a different laboratory advised her that her sample had a creatinine level of 2.9 mg/dL and a specific gravity of 1.002; the same sample tested negative for drugs on both the immunoassay and the confirmation test.

A second flight attendant produced two substituted tests, the second under direct observation, a procedure designed to ensure that a substituted sample cannot result from tampering. Her first substituted sample had a creatinine concentration of 4.8 mg/dL and a specific gravity of 1.001. She passed a (directly observed) return-to-duty test after not flying for

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three months, with levels of 5.6 mg/dL and 1.001. Her third test (observed) occurred after working again as a flight attendant for about three months; the result was another substituted test with levels of 4.9 mg/dL and 1.001.

This is not new information for either the DOT or the HHS; both individuals have been in repeated contact with high level officials in SAMHSA's Division of Workplace Programs and the DOT's Office of Drug and Alcohol Policy and Compliance.

Validity testing done on 85 urine samples confirms the problems identified above. In early October, AFA asked Pacific Toxicology Laboratories to test these samples - samples held in frozen storage by the laboratory following earlier tests for an unrelated AFA health project - for creatinine, specific gravity, nitrites and pH. Two separate individuals produced creatinine levels of 1.9 mg/dL and specific gravity levels of 1.001. (Attachment A)

None of these results are surprising. They are results which fall outside the bell curve of what is expected - what is normal - for 95% of the population. Our concern is the other 5%, who do not produce a "normal" test result through no fault of their own. As the Air Line Pilots Association (ALPA) pointed out, quoting a statement by Dr. Vina Spiehler, in their submission to the DOT on April 7, 2000, "the quantity of creatinine produced (and correspondingly the amount of creatinine excreted in one's urine) varies from person to person, and can vary by as much as 69.9% for a single person at different times as measured on spot urine tests". In addition, the ALPA submission notes that "women, on average, have lower levels of creatinine, and when they eat primarily vegetarian diets, consume great quantities of water, and are at a particular point in their menstrual cycle, may be at greater risk of having ultra-dilute urine, and being deemed to have 'substituted' their samples".

Our request is a modest one. We are merely asking for fair treatment for those who fall outside the bell curve - those whose test results are not consistent with the "normal" results expected for 95% of the population.

To exact punishment - unless the government can prove, beyond a reasonable doubt, that there was an attempt to falsify or an intent to deceive - is morally wrong. Termination of employment has often been called the 'capital punishment' of employee-management relations. If it is ever warranted, it must be based on unassailable evidence.

Thank you in advance for your consideration of our concerns.

Sincerely,

Patricia A. Friend
International President

cc: Robert L. Stephenson II, Director, Division of Workplace Programs

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Attachment A - Page One of Eight
Association of Flight Attendants, AFL-CIO

Attached are the results of validity testing performed on 85 urine samples, provided by members of AFA, in connection with a project unrelated to validity testing. It goes without saying that the participants had no incentive to tamper with their samples.

The tests were done by Pacific Toxicology Laboratories.

The laboratory tested blood and urine samples provided by members of AFA in 1998 and 1999. AFA was looking at these employees after air quality incidents on board aircraft with potential exposure to hydraulic fluids and/or lubrication oil. At that time, the laboratory advised AFA of unusually low creatinine levels in some samples. AFA asked that the samples be frozen and stored because additional urine testing did not seem useful at that time.

The samples entered into the laboratory's Sample Archival Program and remained in a frozen state there.

Recently, William P. Knowles, an attorney working on AFA's air quality review, and I contacted the laboratory to ask that it run the standard validity test panel (tests for creatinine, specific gravity, pH and nitrites) on the stored samples. We asked that testing be done, to the extent possible, in accord with validity testing standards established by the federal government.

Last week these samples were thawed and entered in the laboratory's computer for testing in compliance with out request.

The laboratory results for this testing are attached. They show that two separate samples of the 85 tested had creatinine levels of 1.9 mg/dL and specific gravity of 1.001.

These results would be classified as substituted samples under federal guidelines. They reinforce AFA's argument that some individuals can fall outside the proposed standards for normal.

Ann Tonjes

Ann Tonjes
Manager, Policy Planning
Association of Flight Attendants, AFL-CIO

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From: "Roger Delgado" <rdelgado@pactox.com>
To: afa_dom.post1(ATONJES)
Date: 10/17/01 2:50PM
Subject: Laboratory report

Ms. Tonjes,

Please find attached laboratory report., per your request. test date: Oct 15, 2001

Roger A Delgado
PacTox

CC: afa_dom.SMTP("PACTOXPAUL@aol.com")

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PACIFIC TOXICOLOGY LABOR
ADHOC REPORT

COMPANY: ASSOC. OF FLIGHT ATTENDANTS AFL-CIO
ATTN: WILLIAM P KNOWLES, ESQ

ACCESS NUMBER	DATE REC'D	DATE REPORTED	CREATININE URINE(FORENSIC) MG/DL	SPEC. GRAVITY URINE(FORENSIC)
R4007574	15-Oct-01	16-Oct-2001	118.4	1.024
R4007583	15-Oct-01	16-Oct-2001	62	1.012
R4007592	15-Oct-01	16-Oct-2001	65	1.011
R4007609	15-Oct-01	16-Oct-2001	12.2	1.005
R4007618	15-Oct-01	16-Oct-2001	73.2	1.014
R4007627	15-Oct-01	16-Oct-2001	34.7	1.02
R4007636	15-Oct-01	16-Oct-2001	217.8	1.04
R4007645	15-Oct-01	16-Oct-2001	22.1	1.007
R4007654	15-Oct-01	16-Oct-2001	111.3	1.021
R4007663	15-Oct-01	16-Oct-2001	49.5	1.009
R4007672	15-Oct-01	16-Oct-2001	141.9	1.022
R4007681	15-Oct-01	16-Oct-2001	321.8	1.028
R4007691	15-Oct-01	16-Oct-2001	154.3	1.02
R4007707	15-Oct-01	16-Oct-2001	33.3	1.008
R4007716	15-Oct-01	16-Oct-2001	71.6	1.012
R4007725	15-Oct-01	16-Oct-2001	94.6	1.022
R4007734	15-Oct-01	16-Oct-2001	96.2	1.015
R4007743	15-Oct-01	16-Oct-2001	136.9	1.021
R4007752	15-Oct-01	16-Oct-2001	157.9	1.026
R4007761	15-Oct-01	16-Oct-2001	118.8	1.024
R4007771	15-Oct-01	16-Oct-2001	30	1.006
R4007780	15-Oct-01	16-Oct-2001	1.9	1.001
R4007799	15-Oct-01	16-Oct-2001	126.4	1.018
R4007805	15-Oct-01	16-Oct-2001	136.5	1.026
R4007814	15-Oct-01	16-Oct-2001	117.2	1.024
R4007823	15-Oct-01	16-Oct-2001	96.2	1.012
R4007832	15-Oct-01	16-Oct-2001	81.9	1.016
R4007841	15-Oct-01	16-Oct-2001	24.6	1.005
R4007851	15-Oct-01	16-Oct-2001	76.7	1.013
R4007860	15-Oct-01	16-Oct-2001	22.9	1.007
R4007879	15-Oct-01	16-Oct-2001	80.5	1.014
R4007888	15-Oct-01	16-Oct-2001	129.3	1.018
R4007897	15-Oct-01	16-Oct-2001	20.1	1.004
R4007903	15-Oct-01	16-Oct-2001	52.9	1.012
R4007912	15-Oct-01	16-Oct-2001	24.1	1.006

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R4007921	15-Oct-01	16-Oct-2001	17	1.003
R4007931	15-Oct-01	16-Oct-2001	78.4	1.018
R4007940	15-Oct-01	16-Oct-2001	19.6	1.006
R4007959	15-Oct-01	16-Oct-2001	25.3	1.008
R4007968	15-Oct-01	16-Oct-2001	45.7	1.012
R4008231	15-Oct-01	16-Oct-2001	70.8	1.024
R4008240	15-Oct-01	16-Oct-2001	89.6	1.026
R4008259	15-Oct-01	16-Oct-2001	129.6	1.028
R4008268	15-Oct-01	16-Oct-2001	52	1.018
R4008277	15-Oct-01	16-Oct-2001	67.1	1.02
R4008286	15-Oct-01	16-Oct-2001	169.3	1.03
R4008295	15-Oct-01	16-Oct-2001	34	1.008
R4008301	15-Oct-01	16-Oct-2001	33.9	1.008
R4008311	15-Oct-01	16-Oct-2001	128.3	1.028
R4008320	15-Oct-01	16-Oct-2001	50.4	1.008
R4008339	15-Oct-01	16-Oct-2001	90.4	1.024
R4008348	15-Oct-01	16-Oct-2001	147.5	1.028
R4008357	15-Oct-01	16-Oct-2001	31.4	1.006
R4008366	15-Oct-01	16-Oct-2001	22.9	1.005
R4008375	15-Oct-01	16-Oct-2001	91.9	1.022
R4008384	15-Oct-01	16-Oct-2001	153.8	1.03
R4008393	15-Oct-01	16-Oct-2001	101.7	1.026
R4008400	15-Oct-01	16-Oct-2001	16.2	1.003
R4008419	15-Oct-01	16-Oct-2001	36.6	1.008
R4008428	15-Oct-01	16-Oct-2001	133.8	1.022
R4008437	15-Oct-01	16-Oct-2001	51.7	1.01
R4008446	15-Oct-01	16-Oct-2001	68.9	1.012
R4008455	15-Oct-01	16-Oct-2001	34	1.006
R4008464	15-Oct-01	16-Oct-2001	58.1	1.008
R4008473	15-Oct-01	16-Oct-2001	20.5	1.004
R4008482	15-Oct-01	16-Oct-2001	157.7	1.028
R4008491	15-Oct-01	16-Oct-2001	48.8	1.01
R4008508	15-Oct-01	16-Oct-2001	39.8	1.006
R4008517	15-Oct-01	16-Oct-2001	238.7	1.04
R4008526	15-Oct-01	16-Oct-2001	108.4	1.024
R4008535	15-Oct-01	16-Oct-2001	20.4	1.003
R4008544	15-Oct-01	16-Oct-2001	21.5	1.004
R4008553	15-Oct-01	16-Oct-2001	32.3	1.005
R4008562	15-Oct-01	16-Oct-2001	22.4	1.004
R4008571	15-Oct-01	16-Oct-2001	137	1.026
R4008581	15-Oct-01	16-Oct-2001	10.8	1.003
R4008590	15-Oct-01	16-Oct-2001	1.9	1.001
R4008606	15-Oct-01	16-Oct-2001	29.1	1.005
R4008615	15-Oct-01	16-Oct-2001	40	1.005
R4008624	15-Oct-01	16-Oct-2001	176.8	1.028
R4008633	15-Oct-01	16-Oct-2001	16.9	1.003

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R4008642	15-Oct-01 16-Oct-2001	16.2	1.003
R4008651	15-Oct-01 16-Oct-2001	53.9	1.008
R4008661	15-Oct-01 16-Oct-2001	32.6	1.005
R4008670	15-Oct-01 16-Oct-2001	20.6	1.009

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ATORIES

NITRITES, URINE(FORENSIC) UG/ML	pH, URINE(FORENSIC)
NEGATIVE	4.9
NEGATIVE	4.8
NEGATIVE	5.8
NEGATIVE	6.4
NEGATIVE	6.5
NEGATIVE	2.6
NEGATIVE	5.8
NEGATIVE	6
NEGATIVE	5.6
NEGATIVE	6
NEGATIVE	5.5
NEGATIVE	6.6
NEGATIVE	6.9
NEGATIVE	6.6
NEGATIVE	5.1
NEGATIVE	5.4
NEGATIVE	5.2
NEGATIVE	6.9
NEGATIVE	4.9
NEGATIVE	6.9
NEGATIVE	6.3
NEGATIVE	6.2
NEGATIVE	6.1
NEGATIVE	4.8
NEGATIVE	5.7
NEGATIVE	6.5
NEGATIVE	4.8
NEGATIVE	6.2
NEGATIVE	6.5
NEGATIVE	6.2
NEGATIVE	5.1
NEGATIVE	6
NEGATIVE	5.1
NEGATIVE	6.8
NEGATIVE	6.3

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NEGATIVE	6
NEGATIVE	6.5
NEGATIVE	6.5
NEGATIVE	5
NEGATIVE	6.2
NEGATIVE	6.5
NEGATIVE	5.4
NEGATIVE	6
NEGATIVE	5.6
NEGATIVE	5.4
NEGATIVE	4.9
NEGATIVE	6.8
NEGATIVE	6.1
NEGATIVE	5.8
NEGATIVE	6.5
NEGATIVE	6.6
NEGATIVE	5
NEGATIVE	6.1
NEGATIVE	6.3
NEGATIVE	6.6
NEGATIVE	4.8
NEGATIVE	6.2
NEGATIVE	6.8
NEGATIVE	5.8
NEGATIVE	6.1
NEGATIVE	6.5
NEGATIVE	6.7
NEGATIVE	6.8
NEGATIVE	6.1
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NEGATIVE	6.5
NEGATIVE	6.1
NEGATIVE	5.8
NEGATIVE	5.6
NEGATIVE	5.3
NEGATIVE	6.8
NEGATIVE	7
NEGATIVE	5.8
NEGATIVE	6.3
NEGATIVE	5.7
NEGATIVE	6.7
NEGATIVE	6.3
NEGATIVE	6.6
NEGATIVE	5.4
NEGATIVE	5
NEGATIVE	5.7

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NEGATIVE	6.1
NEGATIVE	5.7
NEGATIVE	6.6
NEGATIVE	6.7